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11 PAYPAL, INC.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,
Plaintiff, Counter-defendant,
v.
APPLE INC.,
Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH
**DECLARATION OF BRIAN SIMS IN
SUPPORT OF APPLE INC.'S
ADMINISTRATIVE MOTION TO
SEAL**

DECLARATION OF BRIAN SIMS

I, Brian Sims, declare as follows:

3 1. I am the Senior Director and Associate General Counsel of PayPal, Inc. I am over
4 18 years of age and am competent to testify to the matters set forth herein. I am familiar with
5 PayPal's policies and procedures regarding its protection and treatment of highly sensitive,
6 confidential, and proprietary business information and contracts. As such, I have personal
7 knowledge of the matters set forth herein, and, if called upon, would testify competently and
8 truthfully to the matters set forth herein.

9 2. I make this declaration in partial support of Apple Inc.’s Administrative Motion to
10 Seal DX-3891. As stated below and identified in the accompanying Proposed Order, PayPal only
11 seeks to seal and redact limited portions (“Redacted Information”) of Exhibit DX-3891 (“Merchant
12 Agreement”) to protect PayPal’s confidential and competitively sensitive and/or proprietary
13 information.

14 3. The Merchant Agreement is an agreement between Apple and PayPal regarding
15 PayPal's facilitation of payments by Apple customers in the Apple iTunes Store. The Redacted
16 Information consists of (1) specific contractual terms, (2) pricing information, and (3) confidential
17 identifying information of PayPal employees.

18 4. The specific contractual terms and pricing information were carefully negotiated
19 between PayPal and Apple. Such terms and pricing information were specifically tailored for that
20 particular agreement under the circumstances as a result of confidential negotiations. These terms
21 and pricing information directly reflect PayPal's confidential business decisions and strategy. The
22 confidential identifying information of PayPal employees contain their phone numbers and e-mail
23 addresses, which are not publicly available to protect their privacy. PayPal is not seeking to seal
24 the names of these employees.

25 5. PayPal expends significant efforts to keep the Redacted Information confidential.
26 The Redacted Information is not available to the public, and the Merchant Agreement requires both
27 PayPal and Apple to keep such information confidential.

28 6. If the Redacted Information were to be made public, PayPal's competitors and/or

1 other parties would gain first-hand knowledge to confidential strategic business decisions and
2 negotiations that would cause PayPal competitive harm. Competitors can use this information to
3 calibrate their pricing and/or contract terms to gain an unfair competitive advantage, or otherwise
4 try to undercut PayPal to put themselves in an advantageous position. Furthermore, certain PayPal
5 employees would be harmed by exposing their personal identifying information to the public.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct.

8 Executed this 30th day of April, 2021, at Baltimore County, Maryland.

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DocuSigned by:

Brian Sims

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Brian Sims